

Getting It Right from the Start: Adequate Searches, Reasonable Estimate, and Documenting Fullest Assistance

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Implement Best Practices Before Your Agency Gets the Request

Agency rules

Copying costs

Maintain a log

JLARC reporting metrics

Using technology you have

Reading and analyzing requests

Communicating with requesters

Documenting the process

Reasonable estimates

Conducting adequate searches

Managing deadlines

Dealing with extraordinary requesters

Implement Best Practices Before Your Agency Gets the Request



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Letters

5-Day Response

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WAPRO has updated the [Toolkit!](#) Viewable by members only.

Implement Best Practices Before Your Agency Gets the Request

Agency rules

- Each agency, in accordance with published rules, shall make available for public inspection and copying all public records (RCW 42.56.070(1))

Resources

- <http://mrsc.org/Home/Explore-Topics/Legal/Open-Government/Open-Government.aspx>
- <http://mrsc.org/Home/Explore-Topics/Legal/Open-Government/Public-Records-Act.aspx>
- <https://www.wa-pro.org/wapro-resources>
- https://www.cityofvancouver.us/sites/default/files/fileattachments/financial_and_management_services/page/8467/prarules.pdf
- <https://www.seattle.gov/public-records/prarules-and-resources>
- <https://www.masontransit.org/publicrecordsrequest/>
- https://www.kirklandwa.gov/depart/Finance_and_Administration/Public_Records/Public_Records_Request.htm

Implement Best Practices Before Your Agency Gets the Request

Copying costs

- Notice and public hearing required to charge actual copying costs (RCW 42.56.070(7))
- May charge statutory costs if agency rules or regulations declare reasons doing so would be unduly burdensome (RCW 42.56.120(2)(b))

Resources:

- <http://mrsc.org/getmedia/2c2a6fc7-794f-4433-be07-fe9739dfc3d5/PRAcostsforcopies-summary.pdf.aspx>
- https://www.wahbexchange.org/wp-content/uploads/2013/05/HBE_PRR_170807-Public-Records-Fee-Schedule.pdf
- <http://mrsc.org/getmedia/2afc39bd-12f7-4e43-84c1-5651e636cc8b/s42PRRcostStudy.pdf.aspx> (Seattle's initial cost study)

Implement Best Practices Before Your Agency Gets the Request

- Every agency must maintain a log of public records requests:
 - Identity of the requestor
 - Date received
 - Text of the original request,
 - Description of the records produced,
 - Description of record redacted or withheld and reasons therefor, and
 - Date of the final disposition of the request. (RCW 40.14.026(4))

Implement Best Practices Before Your Agency Gets the Request

JLARC reporting requirements

- Mandatory for agencies with \$100,000+ staff & legal costs
- Discretionary for those with less than \$100,000 (RCW 40.14.026(5))

Resource:

<http://leg.wa.gov/jlarc/Pages/publicRecAdmin.aspx>

Lay the Groundwork to Ease Processing

- Train agency staff
 - Elected officials and persons appointed to fill local/statewide office vacancy must have PRA, OPMA, & records retention training within 90 days of taking office with a refresher every four years. RCW 42.56.150
 - Public records officers and records officers must complete training within 90 days of assuming responsibilities with a refresher every four years. RCW 42.56.152
 - Resources:
 - <https://www.atg.wa.gov/open-government-training>
 - <http://mrsc.org/Home/Training.aspx>
 - WAPRO website: <https://www.wa-pro.org/>

Lay the Groundwork to Ease Processing

- Avoid pushing every request out the same amount of time
- Read and analyze the request immediately
- Create a search plan
- Search for records that might be close to retention limits ASAP
- Conduct time and cost studies to make and support reasonable estimates
- Create communication templates

Lay the Groundwork to Ease Processing

- Create search forms, response templates, and other tools to streamline processing

The screenshot displays the WAPRO website interface. At the top left is the WAPRO logo (Washington Association of Public Records Officers). To the right are links for 'Member Logout' and a search bar. A blue navigation bar contains links for Home, WAPRO Membership, Events, Resources, CPRO Info, and About WAPRO. The main content area is titled 'WAPRO Toolkit' and includes a 'Table of Contents' with a list of categories: Letters, Forms, Logs, Model Policies, and Injunctive Orders. Below this is a 'Letters' section with a '5-Day Response' list of actions. On the right side, there are 'Quick Links' (My Membership, Certification, Recertification, Contact Us, Job Board), 'Upcoming Events' (2019 WAPRO Spring Training, 2019 WAPRO Fall Conference), and 'Announcements'.

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Washington Association of
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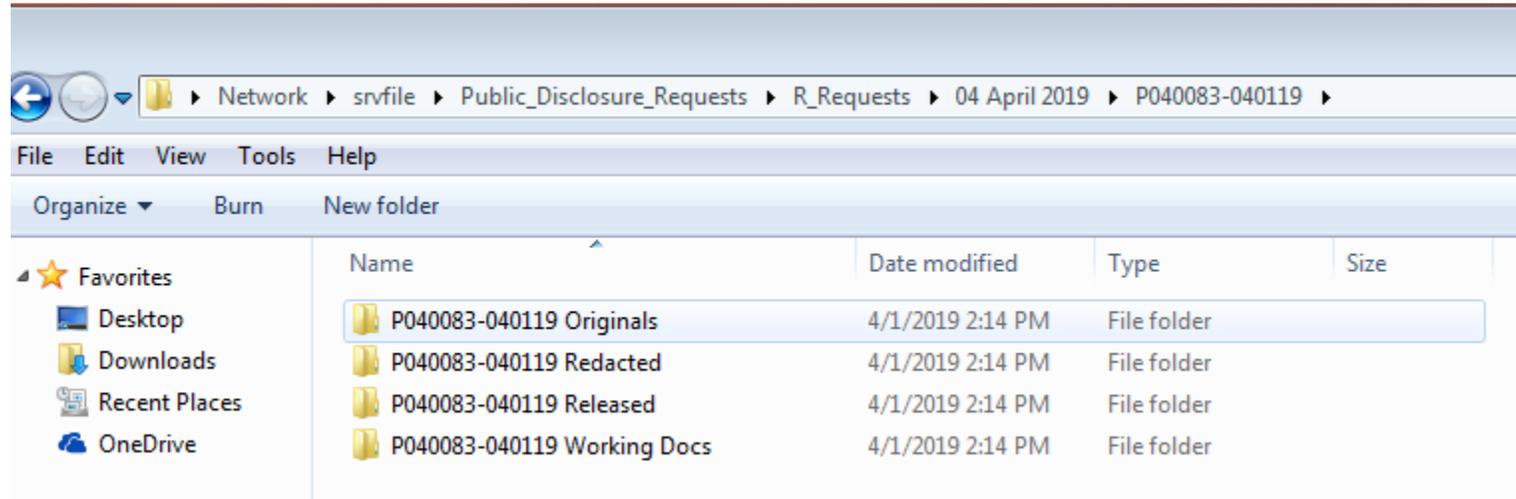
Use Technology You Have

- Excel
 - Request logs
 - Set & manage deadlines
 - Create search and tracking forms
 - Exemption logs and overlays

1(a)	Active Investigation - RCW 42.56.240(1)	This case is under active investigation and non-disclosure is essential to effective law enforcement. (RCW 42.56.240(1).) Explanation: The contents of an active investigation are categorically exempt in their entirety. See <i>Newman v. King County</i> , 133 Wn.2d 565, 947 P.2d 712 (1997) and <i>Cowles Publishing Co. v. Spokane Police Department</i> , 139 Wn.2d 472 987 P.2d 620 (1999).
1(b)	Investigative Information - RCW 42.56.240(1), RCW 42.56.050	Record includes information non-disclosure of which is essential to effective law enforcement. (RCW 42.56.240(1) as defined by RCW 42.56.050) Explanation: Disclosure would jeopardize a criminal investigation/prosecution.

Use Technology You Have

- WORD Folders



Use Technology You Have

- Adobe

Susie Victim

1234 5th Ave, E, Seattle, WA 98104

Viewlands Elementary School

susiev@aol.net

1(m) [Redacted]
1(m) [Redacted]
1(m) Elementary School
1(m) [Redacted]

1(m)	Child Victim Sex Crime - RCW 10.97.130, RCW 42.56.240(5)	Records contain information revealing the identity of child victims of sexual assault who are under age eighteen. Identifying information means the child victim's name, address, location, photograph, and in cases in which the child victim is a relative or stepchild of the alleged perpetrator, identification of the relationship between the child and the alleged perpetrator. (RCW 10.97.130 and RCW 42.56.240(5)) Explanation: Disclosure would violate the child victim's right to privacy.
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Parsing a Request

P16879

- Complete incident report with summary and addendums (including audio, video, photos)
- Complete investigative report with addendums (including audio, video, and photos)
- All documents released to the media regarding Ms. Lyles and her children
- All police investigation materials related to Ms. Lyles and her children
- All police hazard information related to Ms. Lyles and her children
- All calls to or from Ms. Lyles with SPD
- All visits with Ms. Lyles by SPD
- All transcripts regarding or mentioning Charleena Lyles and/or her children
- Transcripts of all interviews conducted during the internal department investigation regarding Ms. Lyles
- SPD policy manual in force at the time of incident with Ms. Lyles
- All rules, guidelines, policies, procedures, regarding training of officers for use of tasers
- All rules, guidelines, policies, procedures regarding requirement of officers to carry tasers
- All rules, guidelines, policies, procedures regarding maintaining and operating condition of tasers
- All rules, guidelines, policies, procedures regarding permission needed for an officer trained in use of a taser or not to carry a taser
- Crisis Intervention Training course attended by Steven McNew
- All rules, guidelines, policies, procedures regarding use of body worn cameras at the time of all interactions with Ms. Lyles
- All dash cam video related to Ms. Lyles and her children
- All audio related to Ms. Lyles and her children
- All video related to Ms. Lyles and her children
- All photographs related to Ms. Lyles and her children
- All investigating law enforcement entities who are reviewing incidents between Ms. Lyles and the SPD
- All documentation regarding officers McNew and Anderson and their actions in the incident not otherwise yet disclosed
- All documentation regarding investigation into the incident not otherwise yet disclosed
- All other public records requests made by any other person or entity to SPD regarding Charleena Lyles

Create a Search Plan & Document Progress

P24751

1. All cities that you serve contracted emergency services to and the current contract.

→ Mutual Aid Agreements

2. All cities you receive contracted police services from and the current contract.

→ Mutual Aid Agreements

3. The RFP advertisement/emails your city sent out to get an Police Service Study for the last five years.

→ Email search – 10 hits – no responsive records

→ Zuzka at FAS – no records, need clarification about what a PSS is

→ Check with Brian Maxey once we receive clarification

→ *Asked for clarification*

4. List of who gave proposal for your City's RFP for the Police Service Study in the last five years.

→ emailed Sheryl Jardine – no records

→ *Asked for clarification*

5. All proposals given to your city in the last five years for police services studies.

→ *Asked for clarification*

6. All emails to or from BERK consulting.

→ Email search – 817 hits – 1 responsive, need MP to review

7. All contracts to or from BERK consulting.

→ Emailed Sheryl Jardine – 2 Agreements received

8. All final police service studies reports to your city for the last five years.

→ *Asked for clarification*

9. Statistics of crimes in your city for the last five years. → [data.gov link](#)

10. Print out of costs for police services in your city for the last five years.

→ [Budget office link](#)

Lay the Groundwork to Ease Processing

- Search form tips
 - Determine what records your agency has, where they are located, how to search for them, and whom to contact
 - Enter information as you conduct the search
 - Retain form in processing folder
 - Avoid perfunctory entries

Resources:

WAPRO Tool Kit: <https://www.wa-pro.org/wapro-resources>

Handout: SPD Public Disclosure Request Worksheet

Calculate How Long Processing Will Take

1. Determine the Steps in a Process:

Processing emails for PDRs includes all or most of the following steps:

- Determine Keywords
- Conducting Email Search(es)
- PST Download
- Exporting PST to Folder
- Open & Export PST to Outlook
- Segregate Responsive from Non-Responsive Emails
- Convert to PDF
- Review Emails and Apply Redactions
- Other Task(s) (typically, responding to PST “crashes”, using the Outlook repair tool, and communicating with Seattle ITD re: technical issues)

Calculate How Long Processing Will Take

2. Conduct Time Study

Task	Average Time
Determine Keywords	3 minutes
Create Email Search Activity and Transmit	3 minutes
Email Search	29 minutes
PST Download	76 minutes
Exporting PST to Folder	14 minutes
Open & Export PST to Outlook	4 minutes
Segregate Responsive Emails from Non-Responsive Emails	33 minutes
Convert to PDF	9 minutes
Review Emails and Apply Redactions (per installment)	61 minutes
Other Task(s) Performed Related to Email Search and Review (e.g., responding to PST "crashes", using the Outlook repair tool, and communicating with Seattle ITD re: technical issues)	235 minutes
Total	467 minutes

Activity	Level of Redactions	Time	Average Number of Emails including Attachments
Review Emails and Apply Redactions	None or few redactions	1 hour	220
Review Emails and Apply Redactions	Heavy or detailed redactions	1 Hour	50

Calculate How Long Processing Will Take

3. Use Results to Calculate Response Times

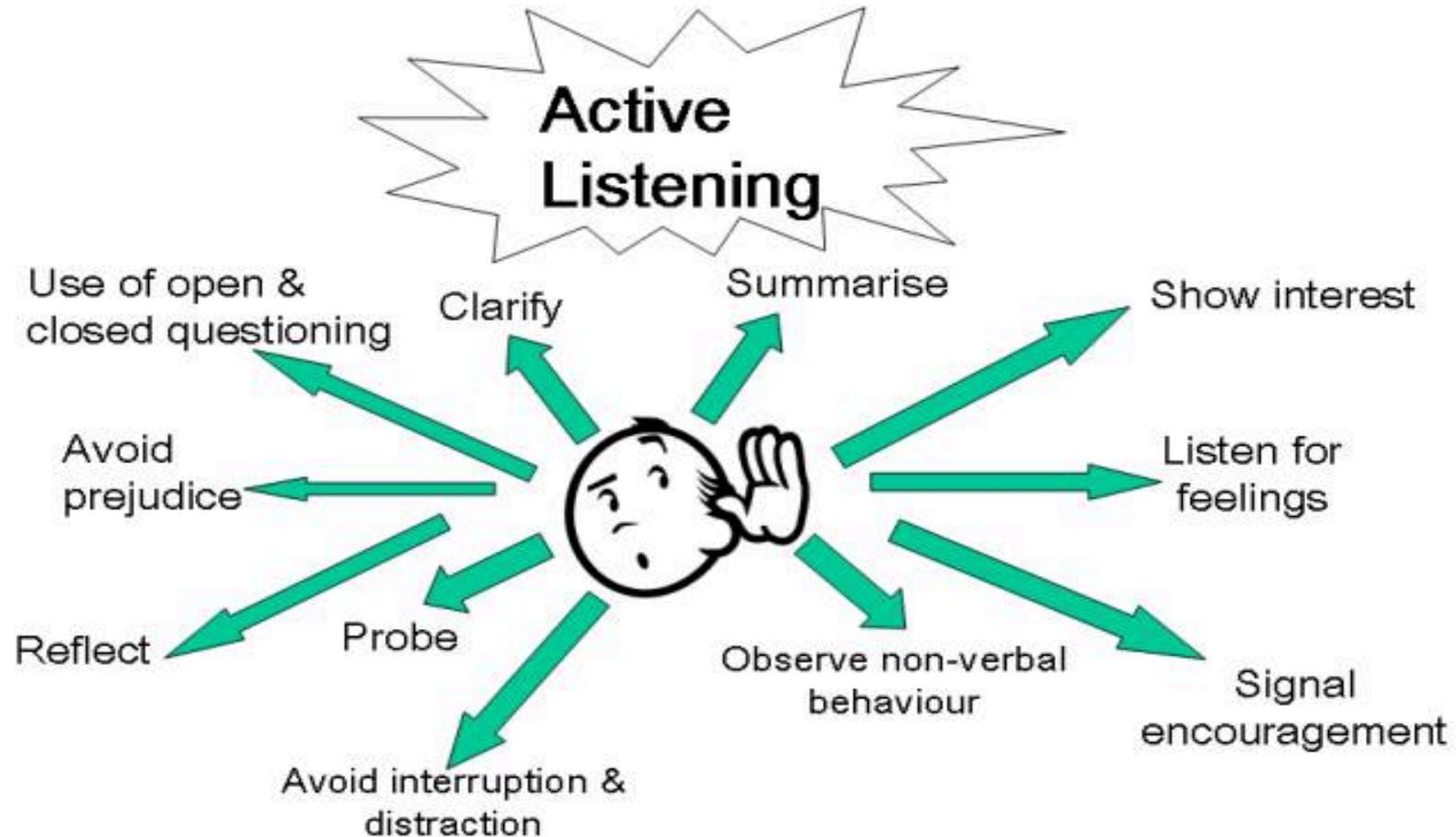
The results show that the average time to process an email request through the first installment is 467 minutes or 7 hours and 47 minutes.

PRO can process 50 emails per hour if heavy/detailed redactions required, and 220 emails per hour if few or no redactions required.

A request that returns 1500 emails that require heavy/detailed redactions will take an average of 7 hours 47 minutes to process the first 50 emails plus 29 hours to process the remaining 1450 emails ($1450 \div 50 = 29$) or a total of 36 hours and 47 minutes.

Calculate how much time per week or month that you can fairly allot to the request based on number of assigned, open requests and use result to provide estimate.

Communicating with Requesters



Communicating With Requesters

- Explain– Educate the requestor about the PRA process, availability of records, and current workloads.
- Honesty: Always be honest about what is feasible, give realistic time estimates and reasoning for why.
- Communicate – Engage the requestor to provide information, make them a part of the process. Phone calls can help – but always document in writing later.
- Stay Organized – Every request is important!

Communicating With Requesters

- Listen Patiently – Let the requestor talk themselves out. By listening, you can build trust, empathy and rapport and it calms down the difficult person.
- Show Empathy – Show that you understand the requestor's concerns.
- Imagine an Audience – Keep yourself in check, calm, and in charge.
- Emotional Control
- Don't Take it Personally

Communicating With Requesters

- Document every communication
- Follow up every oral communication in writing
 - Explain your understanding of what was said
 - Verify that your understanding was correct
 - Provide requester a timeframe to get back to agency if they disagree and let requester know that you will assume that your interpretation is correct if they don't respond within the timeframe.

Setting Expectations

Tell requesters what you're doing and how you're doing it

You have requested: *****PDO, insert records request here*****

When a request uses an inexact phrase such as “all records” relating to an incident, an agency may interpret the request to be for records which directly and fairly address the topic and should seek clarification of the request from the requestor This is to inform you that SPD interprets your request to be for records which directly and fairly address an incident, which would reasonably be found in the following locations:

Computer Aided Dispatch (CAD System)

Records Management System (RMS)

Legacy RMS/Keyfile (for incidents prior to 2008)

In-car video system (incidents since 2008)

Body-worn video system (incidents since 2017)

Digital evidence management system for audio recordings and photos

Milestone Video System (BAC Room video (DUI arrest – if taken to SPD facility), Holding Cell and Sally Port video (if subject was taken to SPD facility)

Major Case File or Vault (paper-only records)

Detectives' Files (if incident was followed up by a detective)

SPD will search the locations listed above in responding to your request. Please let us know if there are specific records other than those listed above that you are seeking. If we do not hear from you within 5 business days, we will assume that our interpretation is correct. At this time, the City anticipates that it will be able to provide **[CHOOSE ONE: the requested records / a first installment of records]** on or about ***** PDO, insert date *****. However, please note that this time estimate may change based on any clarification you provide and as we continue to process your request.

Setting Expectations

Caution

Don't apply overly narrow search standards. A search must be adequate and requester must have opportunity to broaden agency's intended search.

Setting Expectations

Explain technical capabilities and limitations

There are two issues with running the email searches you are requesting due to the tool we have:

1. We cannot run more than approximately 8 keywords per search before our search tool stops acknowledging keywords. If we did more than 8 keywords, there is a very high chance we would not be providing all responsive records and we would not be able to readily distinguish which keywords were not acknowledged by the tool.
2. We cannot limit a search to only emails between SPD and the City Attorneys office - the search tool cannot limit by a specific city department. This would only be possible if you knew the specific individuals from the City Attorney's office you wanted records from, we could then enter their email addresses.

At this point I have run 16 searches with the following parameters:

All SPD mailboxes

Keywords: all incident numbers you provided - 8 incident numbers per search

Date range: sent before 3/20/2018 (your request date)

Condition: participant: "@seattle.gov" - this will limit the hits to any department with an @seattle.gov email address, but will include all departments, not just the City Attorney's office.

The other thing I was trying to point out is that there is a high chance of us providing duplicates in all 3 types of searches you requested (incident number, SMC number, and defendant name) because emails will usually have a combo of those 3 things (i.e. an email with the incident number and defendant name will show up in 2 of the searches) and we would provide them as responses to both, so you would be getting several duplicates.

With all of this - I just wanted to confirm that you do want records from each of the 3 types of searches. I have started to download the results from the incident number searches now, but wanted to confirm before I begin running the additional 32 searches for the SMC case numbers and defendant names.

Setting Expectations

Explain search results

On 2/15/19 I messaged you and explained that I ran the following email search: I ran a new email search of all SPD mailboxes, using keywords: "Matt Marshall" OR "Joey Gibson" OR "Proud Boys" OR "Patriot Prayer" OR "Three Percenters" OR "Oath Keepers", using date range 11/1/16 to 2/14/19 and it returned 20, 318 hits.

You replied that you were interested in all 20,318 hits. I tried to explain in my initial release message yesterday that there were only 4 emails that were actually between Joey Gibson and SPD personnel, and I provided those as a separate PDF yesterday. I have not reviewed all 20,000+ hits yet, as the search results are split into several files because of the volume, but there is a high probability that most will look similar to the media articles released yesterday.

All of the media articles are emails received by SPD personnel that contain one or more of your keywords: "Matt Marshall" OR "Joey Gibson" OR "Proud Boys" OR "Patriot Prayer" OR "Three Percenters" OR "Oath Keepers". This reflects my understanding of how you wanted me to process the request.

We have provided the four emails that were actually between Joey Gibson and SPD personnel. As of now, I have not located any emails between Matt Marshall and SPD personnel or "Travis" and SPD personnel. If you are only interested in emails *between* SPD personnel and Matt Marshall or "Travis", I can run a more targeted email search. If you want all communications with any of the keywords previously provided, I will continue to process the 20, 000+ hits search.

Please note: If you want me to run a more targeted search for communications between SPD and Matt Marshall and "Travis"- I will need additional information on "Travis" such as a last name or email address. If that is not available, it would be a search of all SPD emails with anyone named Travis which will likely produce a lot of false positive hits.

Dealing With Extraordinary Requesters

Setting the tone

Keep it professional – even if it's personal for the requester

Dealing With Extraordinary Requesters

Agency Rules

The act requires strict compliance with its procedural provisions, but also that reasonable procedures will be sustained. WAC 44-14-01002

Dealing With Extraordinary Requesters

Agency Rules Allotting Time

Small Agency:

The City Clerk is one of 2.5 FTE City administrative employees, and is also charged with management of water and sewer billings as well as general administrative functions. The time allocated by the City staff, including the City Clerk as Public Records Officer, to public records requests shall be restricted to 22 hours per month. The City Clerk will keep an accurate and current monthly log of these hours.

Dealing With Extraordinary Requesters

Agency Rules Allotting Time

Larger Agency:

5.2.3 Allocating Specific Amounts of Time and Resources to Requests and Requestors. To provide fullest assistance to all requestors and to prevent excessive interference with other essential City functions, the City may allocate specific amounts of time and resources to responding to a request, whether individual or grouped, and/or to a particular requestor. This may include, but is not limited to, allocating a specific number of hours per week or month to be spent by public disclosure staff and/or by employees for whom responding to records requests is not among their primary assigned duties. The amount of time allocated shall be based on the factors detailed in Section 5.3.2 of this Policy.

Dealing With Extraordinary Requesters

Agency Rules on Order of Processing

(1) Providing assistance. The Officer will process requests in the order that allows the most Requests to be processed in the most efficient manner.

5.2.4 Fullest Assistance. The City's obligation to provide fullest assistance extends to all requestors. Fullest assistance does not require the City to ignore or modify its internal business processes for responding to public records requests or to comply with aspects of a request altering the City's internal administrative matters. Fullest assistance does not mean that the City must acquiesce to demands of one requestor if it may detrimentally affect the City's ability to provide fullest assistance to other requestors, result in damage or disorganization of agency records, or excessively interfere with other essential agency functions.

Dealing With Extraordinary Requesters

Agency Rules on Grouping Requests

5.2.1 Request Management. To provide fullest assistance to all requestors, prevent damage to or disorganization of City records or excessive interference with other essential City functions, or ensure that the appropriate amount of City time and resources will be fairly allocated among all requests and requestors, a PDO or the CPRA program staff may do one of the following:

Process multiple requests from a single requestor consecutively rather than simultaneously. The City has discretion to determine the order for processing the requests;

Treat multiple requests from a single requestor as a single request; or

Process multiple similar requests from different requestors (within or across departments) together as a group. Each requestor will receive a duplicate copy of the response as appropriate.

Dealing With Extraordinary Requesters

Grouping Language Template

This is to update you regarding SPD's response to your multiple public records requests. You currently have **NUMBER** open requests for records, reference numbers: **LIST THEM**

The Washington Public Records Act (PRA) states that agencies shall adopt and enforce reasonable rules and regulations to provide full public access to public records, to protect public records from damage or disorganization, and to prevent excessive interference with other essential functions of the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives. Such rules and regulations shall provide for the fullest assistance to inquirers and the most timely possible action on requests for information. RCW 42.56.100. Consistent with the PRA, the City of Seattle has adopted Multi-Departmental Administrative Rule MDAR 17-0002, Citywide Policy on Processing Public Disclosure Requests: <http://clerk.seattle.gov/~scripts/nph-brs.exe?s1=mdar&s3=&s2=&s4=&Sect4=AND&l=200&Sect2=THESON&Sect3=PLURON&Sect5=CFCF1&Sect6=HITOFF&d=CFCF&p=1&u=%2F~public%2Fcf1.htm&r=1&f=G>

In order to provide fullest assistance to all requesters, to prevent damage to or disorganization of City records or excessive interference with other essential City functions, or to assure that the appropriate amount of City time and resources will be fairly allocated among all requests and requesters, City rules give a Public Disclosure Officer the discretion to group multiple requests received from the same requester or similar requests from multiple requesters and to process the requests together as a group.

SPD will group and process your requests as follows: **DESCRIBE HOW YOU PLAN TO PROCESS.**

At this time, we estimate that we will provide the first installment of responsive records on or about **[FILL IN DATE]**. Please be advised, that the City may revise its estimate upon further review or changed circumstances.

Please note if an installment is not picked up within 30 days, the Department will consider all of the requests in the group abandoned and will close the request.

What Happens If Your Agency Gets Sued?

If you've laid the proper groundwork, the documentation needed to defend your agency will be readily available.

QUESTIONS?